

REPORT TO: PLANNING COMMITTEE
Date of Meeting: 10 February 2020
Report of: Service Lead City Development
Title: Appeals Report

Is this a Key Decision? No

Is this an Executive or Council Function? No

1. What is the report about?

- 1.1 The report provides Members with information on latest decisions received and new appeals since the last report.

2. Recommendation:

- 2.1 Members are asked to note the report.

3. Appeal Decisions Received

- 3.1 **18/1543/OUT - Pocombe Orchard, Tedburn Road, Exeter.** This was an outline application for 5 dwellings on the land off Tedburn Road at Pocombe Orchard.

The main issues were Flood Risk (the Sequential Test in particular) and the impact on character and appearance of the area (Landscape Setting and Valley Park designation). The Inspector found in our favour on both counts and dismissed the appeal.

In regards to the Sequential Test we argued that the test had not been met as housing monitoring indicates that there are a large number of sites which are free from flood risk that have already been identified as being suitable to delivery housing. We went on to argue that if the Sequential Test is not passed, the exception test is not applied and that if the Sequential Test is not passed than the development should be refused. The Inspector agreed and concluded:

'I therefore find that the site does not represent an appropriate location for housing having regard to flood risk. The proposal would therefore be contrary to Policy EN4 of the ELP and Policy CP12 of the CS which, taken together, seek to avoid inappropriate development in areas at risk of flooding. It would also be contrary to the sequential approach to the provision of housing within areas of flood risk set out within the Framework.'

Importantly the Inspector also considered the issue on consistency of decision making and concluded:

'The appellant has drawn my attention to three sites within Flood Zone 3 where the Council deemed the Sequential Test to be met. This includes the adjacent site at Pocombe Grange, which is very similar to the appeal site. However, I must assess this proposal on its own individual merits. To this end, any inconsistency between the Council's approach to these decisions and the proposal would not release me from the requirement to establish the suitability of the appeal site for housing on a sequential basis. For this reason, these permissions have had limited weight in my assessment in relation to this issue.' - This is an important conclusion that could have implications for other cases in the future.

In regards to the impact on the character and appearance of the area we argued that the development would result in harm; an assessment of that harm was undertaken with reference to the reasons why the area was designated, policies L1, LS1 (only limited weight), CP16 and DD29 (very limited weight) and evidence from the Devon Landscape Character Area Assessment and the Exeter Landscape Sensitivity and Capacity Study. The Inspector agreed with our assessment and concluded: *I therefore conclude on this issue that the proposal would have an unacceptable harmful effect on the character and appearance of the area. It would conflict with the design and visual amenity aims of Policies L1 and LS1 of the ELP, Policy CP16 of the CS and the Framework.*

The appeal was dismissed.

3.2 **18/1543/OUT - Beech Hill House, Walnut Gardens, Exeter.** This was an application for a development to build residential accommodation for students (192 Bed Spaces) with associated facilities, infrastructure works and landscaping following demolition of existing buildings.

19/0560/FUL - Beech Hill House, Walnut Gardens, Exeter. This was an application for a development to build residential accommodation for students (166 Bed Spaces) with associated accommodation, infrastructure works and landscaping following demolition of existing buildings (Revised scheme).

The initial application 18/1445/FUL for 192 student bedspaces was refused in October 2018. A second application 19/0560/FUL was refused in April 2019 for 166 student bedspaces. The Inspector considered both schemes at a planning hearing in November 2019 and resolved to allow the more recent smaller scheme with conditions and dismissed the larger scheme. A summary of the Inspector's decision letter is provided below.

The Inspector considered that the main issue was whether the public benefits of the proposals would outweigh any harm to the heritage assets and, if so, whether any adverse impacts of the proposals, having particular regard to: the likely effect upon the living conditions of the occupiers of Nos. 55-61 St. David's Hill and; any imbalance in the local community, would significantly and demonstrably outweigh the benefits.

Benefits

The Inspector considered the benefit of the scheme would be an increase the supply of purpose-built student accommodation (PBSA) within Exeter and on a site that is conveniently located with respect to the University and main services and public transport. The proposals would result in the more efficient use of previously-developed urban land for housing; help address the shortfall in the supply of PBSA within Exeter; have the potential to reduce the pressure on the existing housing stock and to release some houses in multiple occupation by students for use by families. In addition, the scheme would provide economic benefits in terms of support for the construction industry, assisting in the expansion of the University and the increased spend on services and facilities by students. As 'car free' developments, there would be a potential reduction in vehicle traffic to and from the site compared to the lawful use and possible improvements to air quality. The use of solar panels on the roofs of the new buildings would assist in helping to tackle climate change and the drainage strategy indicates that, subject to a reduction in run-off rates from the site, the risk of flooding elsewhere could be reduced.

The Inspector considered that these benefits would be substantial and gave them considerable weight to in his decision.

Heritage Issues

The Inspector considered that whilst the proposals would have a much larger 'footprint' than the existing offices they would not entail the harmful loss of any important open space or disrupt the pattern of building within the street. The new building would be set back from both the street and Walnut House and would not affect the rhythm of building frontages or result in any plot subdivision. It would respect the urban grain and adequate space would be retained around the new building to avoid any cramped effect. The space that would be created between Walnut House would provide a modest enhancement to the setting of this listed building. Consequently the siting and footprint of the building would preserve the character of the conservation area and the setting of Walnut House.

The scale of the proposed building would be greater than Walnut House and the existing office buildings. However, the Inspector considered that the architect had given thoughtful consideration to this matter as part of the overall design. In this regard, the new building would comprise a series of interconnected volumes that would relate to the scale of historic development when seen from within the conservation area and would assist in breaking-up/concealing the overall mass of new building on the site. In both schemes, the upper floor would be stepped back in an attempt to reduce the overall mass of new building on the site.

The Inspector considered that there would be a significant reduction in the size, height and mass of the building proposed under 166 bed scheme. The top floor of accommodation would be removed from the north and south wings and extensively reduced elsewhere. The visual impact of this building would be decreased and a varied roofline created. The new buildings would be lower in height than the roof ridge on Walnut House and no taller than the existing office building (Beech Hill House). Neither development would intrude into the street scene of St. David's Hill. The Inspector considered that the vertical emphasis of the proposed windows and louvered openings would be sympathetic to the character of the conservation area and with the other elements of the design, would provide a high quality contemporary interpretation of traditional building forms. In both schemes the proposed building would sit comfortably alongside Walnut House. There is no evidence to indicate it would harm the significance of this listed building or Nos. 55-61 St. David's Hill.

The Inspector concluded that neither scheme would harm the significance of any listed (including locally listed) buildings and their settings would be preserved. The proposals would accord with the provisions of Local Plan policies C2 and C3.

In the larger scheme, the Inspector considered that the development would conflict with the provisions of Core Strategy policies CP17 and CP4, Local Plan policies C1 and DG1 and, on balance, the aims and objectives of the National Design Guide. The harm to the conservation area that the Inspector identified would not be outweighed by the public benefits of the proposal. In smaller appeal scheme, the negligible/minor harm to the significance and character and appearance of the conservation area arising from the views of the building from the west and the loss of some trees growing within the site would be outweighed by the public benefits of the proposal. This development would accord with provisions of Core Strategy policy CP17, aspects of CP4, Local Plan policy DG1 and the aims and objectives of the National Design Guide.

Living Conditions of Neighbouring Residents

The proposed developments would change the outlook for some neighbouring residents, especially the occupiers of Nos. 55-61 St David's Hill. The mass and height of the new buildings would be apparent from the upper floor rear (west) facing windows in this terrace of houses. However, the Inspector noted that the height and mass of Beech Hill House is also apparent and parts of the former BBC offices can be seen over the top of the rear boundary wall. The proposed buildings would be sited away from the western boundary of the neighbouring terrace and, by virtue of its flat roof profile, massing, contrasting materials and the fall in land across the site, would not appear overbearing or oppressive when seen from Nos. 55-61.

The existing tall boundary wall along the rear of these neighbouring properties is likely to cast shadows across parts of these rear gardens/yards for part of the day. However, for the scheme advanced under the larger appeal scheme, the height and mass of this proposed building would be likely to result in a significant loss of sunlight and could create a gloomy living environment for the occupiers of Nos. 55-61 St. David's Hill. This also weighs against granting planning permission.

In smaller appeal scheme, the impact of this smaller building upon sunlight within these neighbouring rear yards/gardens would not be so great and would be unlikely to seriously erode or harm the living conditions of those living alongside. This proposal would avoid creating a gloomy living environment for neighbours.

The proposals would result in an increase in noise and activity within the site and at the rear of Nos. 55-61 St. David's Hill. However, the existing car park immediately alongside these neighbouring rear gardens/yards would be removed and landscaped, including some tree planting. The development would also largely be 'car free'. If the existing office use intensified or the fall-back was implemented there could be disturbance to neighbours, not least through cars parking and moving within the site. The proposals would eliminate potential disturbance from motor vehicles immediately alongside these neighbouring dwellings. This would be a benefit of the appeal schemes.

Whilst some students can behave in an anti-social way such behaviour is not limited to the student population. There is evidence to suggest that PBSA is less likely to result in this type of behaviour

than student HMOs. Furthermore, it is the appellant's intention to operate the development in accordance with an approved student management scheme. This would assist in managing student behaviour. When considered overall, the proposals would be unlikely to result in harmful noise or disturbance to neighbouring residents.

The larger appeal scheme would be likely to unacceptably harm the living conditions (loss of light) of the residents of Nos. 55-61 St. David's Hill, whereas the impact of the scheme advanced under smaller appeal scheme would not be so great as to justify withholding permission. Whilst there would be much noise and disturbance during the demolition and construction phases, this is the case with most schemes of urban redevelopment. Disturbance would be for a limited period and a planning condition, requiring the development to be undertaken in accordance with an approved construction method statement, would avoid any harmful disturbance to neighbouring residents.

Imbalance in the Local Community

The Inspector noted the concerns of the LPA and some interested parties that the proposed developments would increase the student population within this part of the city. It was also noted that there are other PBSAs and some student HMOs within the conservation area and the smaller St. David's Neighbourhood Area that was referred to by the ward member at the Hearing. The Inspector appreciated that where an imbalance arises in the local population this can lead to social problems and a change in character.

The Inspector did not accept the Council's argument that this matter should be based on an assessment of the site and its immediate surroundings. No figures/details to demonstrate what percentage of housing would comprise student accommodation in the event of the development proceeding. The Inspector concluded that it had not been demonstrated that the numbers of students that would occupy the site would result in an overconcentration of student accommodation within this part of the city, or harm to the character of the area or any imbalance in the local population.

Conclusion

In conclusion, the Inspector found that the public benefits of the larger scheme would not outweigh the harm to the significance and character and appearance of the conservation area or the impact on the neighbouring properties and dismissed this appeal. However for the more recent smaller appeal scheme, the Inspector considered that limited harm to the significance of the conservation area and the impact upon the living conditions of the occupiers of Nos. 55-61 St. David's Hill would not significantly and demonstrably outweigh the substantial benefits of this development when assessed against the policies in the Framework taken as a whole and therefore this appeal should be allowed striking the appropriate balance between accommodating growth within the city. In respect of the memorial tree the Inspector considered that whilst there would be some risk to its health, transplanting is technically possible and subject to an appropriate detailed method statement the tree could continue to flourish. This matter is addressed by way of planning condition.

4. New Appeals

4.1 19/1184/FUL - 11 Sheridan Road, Exeter

First-floor side extension.

4.2 19/1169/FUL - 6 Elliott Close, Exeter

Single storey front extension and extension to bay window.

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling the report:

Letters, application files and appeal documents referred to in report are available for inspection from: City Development, Civic Centre, Paris Street, Exeter

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